

UNITED STATES DISTRICT COURT
Southern District of New York

UNITED STATES OF AMERICA	:	No. 15 CR 00017 (KMK)
	:	
Plaintiff	:	USM Number: 72228-054
	:	
vs.	:	
	:	
KEVIN DiCELLO	:	
	:	
Defendant	:	

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon consideration of Defendant's Motion to Modify Sentence pursuant to Federal Rule of Criminal Procedure 32.1(c), and all supporting documents attached thereto, the undersigned will apply to this Court on a date and at a time designated by the Court for an Order pursuant to Federal Rule of Criminal Procedure 32.1(c), modifying Defendant's Sentencing Judgment and Special Conditions of Supervision be amended to impose a curfew, rather than home confinement, and for such other relief as this Court deems just and proper.

Dated: June 20, 2017

Respectfully Submitted,

BY: Harvey Slovis
Harvey Slovis, Esquire
139 E 63rd St
New York, NY 10065
Attorney for Defendant

**UNITED STATES DISTRICT COURT
Southern District of New York**

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**MOTION TO MODIFY SENTENCE PURSUANT TO
FEDERAL RULE OF CRIMINAL PROCEDURE 32.1(C)**

1. On January 19, 2017, the Defendant, Kevin DiCello was sentenced by the Honorable Kenneth M. Karas to three years of supervised release to run concurrent on all counts (to include six months of home confinement). A true and correct copy of the Sentencing Judgment is attached hereto, made part hereof and marked as Exhibit “A”.

2. At the sentencing hearing held on January 19, 2017, Judge Karas indicated that the home confinement was to be defined “quite broadly” and that DiCello would be permitted to not only go to work but to also attend religious obligations, medical obligations and all family obligations. See January 19, 2017, H.T., Lines 7-17, a copy of which is attached hereto, made part hereof and marked as Exhibit “B”.

3. An Adult Probation Officer from the Middle District of Pennsylvania was assigned to coordinate DiCello’s supervision.

4. DiCello has been informed by his Adult Probation Officer that the Adult Probation Officer has no discretion to allow DiCello to leave home except for work pursuant to the strict terms of the Sentencing Judgment.

5. The Special Conditions of Supervision recited on Page 5 of the Sentencing Judgment state that “During this time you will remain at your place of residence except for employment and other activities approved by your Probation Officer.”

6. DiCello’s Adult Probation Officer has also informed DiCello that if the Sentencing Judgment is modified to impose a “curfew” rather than “home confinement”, the Adult Probation Officer will permit DiCello to attend religious obligations and family functions outside of his home consistent with the broad definition intended by Judge Karas.

WHEREFORE, the Defendant, Kevin DiCello, respectfully requests that his Sentencing Judgment and Special Conditions of Supervision be amended to impose a curfew rather than home confinement so that he may attend family events and other important functions outside of his home.


Dated: June 20, 2017

Respectfully Submitted,

BY: Harvey Slovis
Harvey Slovis, Esquire
139 E 63rd St
New York, NY 10065
Attorney for Defendant

VERIFICATION

I, **KEVIN DiCELLO**, the within-named Defendant, certify that the statements made in the foregoing Motion to Modify, which are within my personal knowledge are true, and those which are based on information received from others, I believe to be true.



KEVIN DiCELLO

Dated: 6/12/17

**UNITED STATES DISTRICT COURT
Southern District of New York**

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Plaintiff	:	USM Number: 72228-054
	:	
vs.	:	
	:	
KEVIN DiCELLO	:	
	:	
Defendant	:	

ORDER

AND NOW, this _____ day of _____, 2017, upon consideration of Defendant's Motion to Modify Sentence pursuant to Federal Rule of Criminal Procedure 32.1(c), **IT IS ORDERED**, that the Motion of Defendant is **GRANTED** and Defendant's Sentencing Judgment and Special Conditions of Supervision are hereby amended to impose a curfew rather than home confinement and to permit the Defendant to attend all family functions and religious obligations.

BY THE COURT,

J.

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KEVIN DiCELLO	:	
	:	
Defendant	:	

CERTIFICATE OF SERVICE

AND NOW, this 20th day of June, 2017, I, **HARVEY SLOVIS, ESQ.**, attorney for Defendant, Kevin DiCello, hereby certify that I served the within Motion to Modify by depositing the same in the United States Mail, postage prepaid, in the Post Office at New York, New York, addressed to:

Michael Maimin, Esq.
Assistant United States Attorney
300 Quarropas Street
White Plains, NY 10601-4150

BY: Harvey Slovis
Harvey Slovis, Esquire
139 E 63rd St
New York, NY 10065
Attorney for Defendant